

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

PAUL MOORE,)
Plaintiff,)
) CASE NO. 1:12-cv-01229 JMS-MJD
)
vs.)
) LOWER COURT CAUSE NO.:
) 49D05-1112-CT-048246
KOHNER PROPERTIES,)
INCORPORATED,)
Defendant.)

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES,
AFFIRMATIVE DEFENSES AND REQUEST FOR JURY TRIAL**

COMES NOW defendant Kohner Properties, Incorporated, by counsel, and for its answer to plaintiff's Complaint for Damages, alleges and says:

ANSWER

1. Moore was at all relevant times a resident of Marion County, Indiana.

ANSWER: Defendant is without sufficient information so as to admit or deny the allegations as contained in rhetorical paragraph one (1) of plaintiff's Complaint for Damages.

2. Defendant Kohner Properties, Incorporated ("Kohner") was at all relevant times a for-profit foreign corporation registered to conduct business in the State of Indiana, with its corporate offices located in St. Louis, Missouri.

ANSWER: Defendant admits the allegations as contained in rhetorical paragraph two (2) of plaintiff's Complaint for Damages.

3. Kohner owns and operates an apartment complex, known as Whitfield Square Apartments, located at 4555 North Arlington Avenue in Indianapolis, Indiana.

ANSWER: Defendant denies the allegations as contained in rhetorical paragraph three (3) of plaintiff's Complaint for Damages.

4. On or around January 2, 2010, Moore was visiting a friend who lived at the Whitfield Square Apartments.

ANSWER: Defendant is without sufficient information so as to admit or deny the allegations as contained in rhetorical paragraph four (4) of plaintiff's Complaint for Damages.

5. While in his friend's apartment, Moore was severely injured when he was shot multiple times by two assailants.

ANSWER: Defendant is without sufficient information so as to admit or deny the allegations as contained in rhetorical paragraph five (5) of plaintiff's Complaint for Damages.

6. Kohner was negligent in failing to take reasonable precautions to protect its tenants and their guests, including Moore, from foreseeable criminal attacks.

ANSWER: Defendant denies the allegations as contained in rhetorical paragraph six (6) of plaintiff's Complaint for Damages.

7. As a direct and proximate result of Kohner's negligence, Moore suffered personal injuries and damages.

ANSWER: Defendant denies the allegations as contained in rhetorical paragraph seven (7) of plaintiff's Complaint for Damages.

AFFIRMATIVE DEFENSES

COMES NOW defendant Kohner Properties, Incorporated, by counsel, and for its affirmative defenses alleges and says:

1. Plaintiff's injuries and damages were caused by the fault/intentional acts of non-parties over whom this answering defendant had no control and for whom this answering defendant cannot be held accountable including Walter Jones and Terry Drake.
2. Plaintiff's fault may be greater than 50% of the fault of those against whom fault can be assessed, and plaintiff may, therefore, be barred from recovery.
3. Plaintiff's damages as alleged should be diminished by plaintiff's percentage of comparative fault, if any, which may exceed the fault of those against whom fault can be assessed.
4. Defendant reserves the right to add additional affirmative defenses as discovery proceeds.

WHEREFORE defendant Lexington Apartments, LLC, d/b/a Lexington Park Apartments, by counsel, respectfully requests plaintiff take nothing by way of her complaint for damages, be assessed costs, and for all other relief this Court deems just.

REQUEST FOR JURY TRIAL

COMES NOW defendant by counsel, and hereby requests trial by jury.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on the 3rd day of October, 2012. Notice of this filing will be sent to the following party or parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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